

CHAPTER VII.

CDBG APPEAL PROCEDURE



A. REGIONAL APPEAL PROCEDURE

If, for any reason, a disagreement occurs between an applicant and the Regional Review Committee (RRC) concerning the way an application was ranked or the process that was followed in determining the rating and ranking, the applicant has the right to appeal the decision as described here. It is hoped that any appeals can be resolved at the regional level. If they cannot, then the state will initiate the appeals procedure as follows:

1. Within 10 working days of the notification of an RRC decision believed by the applicant to be unfair or unreasonable, the applicant must submit a letter to the chairman of the RRC, signed by the chief elected official of the city or county, giving the following information:
 - a. The decision being questioned;
 - b. The date the applicant was notified of the decision;
 - c. The rationale of the applicant for considering the decision to be unfair or unreasonable; and
 - d. A request for a hearing before the RRC, including a statement as to the facts and issues involved.
2. Within ten (10) working days of the receipt of the applicant's hearing request, the chairman of the RRC shall schedule a hearing by the RRC. RRC staff will contact the applicant prior to the hearing to obtain all pertinent information about the appeal, clarify any misunderstandings concerning facts or policy of the RRC, identify any alternatives to an appeal and to resolve, if possible, the conflict and obtain a written withdrawal of the appeal.
3. Should the need for a hearing still be required, a hearing subcommittee consisting of RRC members not from the same county will be appointed as the appellant. The chairman of the RRC will conduct the hearing unless the chairman is from the same county as the appellant. Minutes must be taken. If a resolution cannot be reached, the appeal will revert to the State of Utah and the state will follow the process outlined in the following procedure.

B. STATE ADJUDICATIVE APPEAL PROCEDURE

All appeal procedures identified here shall be conducted in compliance with the Utah Code Annotated 63-46b-4(2).

1. An applicant agency may request an appeal hearing with the Division of Housing and Community Development (HCD). The request must be in writing to the HCD director and copies of the request should be sent to the RRC and any other interested parties and must contain at least the following:

- a. The names and addresses of all persons receiving a copy of the request.
- b. Any RRC reference number.
- c. Date the request was mailed.
- d. Legal authority under which the request is made (this chapter and UCA).
- e. A statement of what relief is sought from HCD and the facts and reasons forming the basis for relief.

2. The request must be made no later than ten (10) working days following the denial of the appeal to the RRC. At this point HCD will place a hold on all processing of any contracts from that region until the issue is settled.

3. If it is determined that the appeal meets the requirements of this section, the HCD director will appoint a hearing officer and will, within five days, notify the applicant of the time and date of the hearing. The notification will include: a HCD reference number, a statement that the procedure will be conducted, informally, in accordance with the authorizations contained in UCA 63-46b-4 and 63-46b-5, time, place and purpose of the hearing, name, title, mailing address and telephone number of the HCD director. The notice should indicate that any party not attending will be found in default.

4. Hearing Procedure

- a. The hearing will be held only to appeal the following two issues:
 - (1) Whether the RRC has established reasonable, equitable criteria for reviewing applications and has adopted a priority ranking process which is fair for all applicants; and
 - (2) Whether the criteria and process were applied equitably and consistently to all applicants.
- b. During the hearing the parties named in the request for hearing will be permitted to testify, present evidence and comment on issues.

- c. Discovery is prohibited and subpoenas may not be issued.
 - d. All parties will have access to HCD files and information collected during any investigation as permitted by law.
 - e. All hearings are open to all parties and any intervention is prohibited.
 - f. Within 21 days after the hearing, the hearing officer shall issue a signed recommendation that states the decision and reasons for the decision to the HCD director. The decision must be based on the facts presented as evidence in the hearing and which are contained in HCD files.
 - g. Within five additional days, the HCD director will issue a signed order which states the decision, reasons for the decision, administrative review available to the parties, time limit for any requests for reconsideration. The order must be promptly mailed to all parties.
 - h. All hearings shall be recorded at HCD's expense. Any party may have a reporter prepare a transcript of the hearing from the record at that party's expense. HCD has the right to approve the reporter.
5. A default may be ordered by HCD if any affected parties fail to participate in the appeals process. The order must be sent to all parties. The proceedings can continue without the party in default at that time. Utah Rules of Civil Procedure allow for the order to be set aside upon request.
6. Written requests for reconsideration must be received by HCD within 10 days of the issuance of the final order by HCD and will be processed in accordance with Administrative Procedures Act, UCA 63-46b-13 and UCA 63-46b-13(3). Judicial Review is also allowed as listed in UCA 63-46b-14 and 15.